

United States Department of State

Washington, D.C. 20520

**MAY 19 2014**

Dear Mr. Welsh:

The Bureau of International Narcotics and Law Enforcement Affairs (INL) welcomes the opportunity to comment on this draft Special Inspector General for Afghanistan Reconstruction (SIGAR) report entitled, "Baghlan Prison: Severe Damage to \$11.3 Million Facility Requires Extensive Remedial Action" (dated May 2014). INL respects SIGAR's role in safeguarding U.S. taxpayer investment, and we share your goals of implementing programs free from waste, fraud, and abuse.

This letter, which includes detailed responses to the recommendations in the SIGAR draft report, provides clarifications on INL's current operating practices and planned actions concerning Baghlan provincial prison. In Appendix I, we provide the Department of State's April 3, 2014 correspondence responding to SIGAR's alert letter about Baghlan prison construction. We ask that SIGAR reflect that additional information in its final report.

INL acknowledges that subsequent to the transfer of the Baghlan prison facility to the Government of the Islamic Republic of Afghanistan on November 11, 2012, soil subsidence occurred at the site due to causes yet to be determined. On July 22, 2013, INL identified damages to the facility caused by soil subsidence and immediately notified the contracting officer. INL conducted site visits on August 18, 22, and 28, 2013 and released a comprehensive assessment of the structural damage on September 7, 2013. On August 24, 2013, INL informed the Department of State's Office of the Inspector General (OIG) of the structural deficiencies at the site and remained in communication with the OIG to coordinate remedial action. On October 2, 2013, at INL's request, the contracting officer submitted a cure notice to the contractor requiring repairs and rebuilding to correct the deficiencies identified in INL's September 7 assessment.

Mr. Mike Welsh

Deputy Assistant Inspector General for Audits and Inspections  
Special Inspector General for Afghanistan Reconstruction  
1550 Crystal Drive, Suite 900  
Arlington, VA 22202

INL continues to actively address the remediation of identified deficiencies, including instructing the construction contractor, Omran Holding Group (OHG), to submit corrective action and safety plans to INL for approval and subsequent action by OHG in accordance with the approved plans. INL continues to engage OHG to follow up and closely track the progress of INL-approved corrective actions that OHG has taken to address the deficiencies.

The Department has awarded a contract for geotechnical investigative soil and construction materials testing for the entire Baghlan prison site. An independent contractor will conduct this testing to identify whether or not appropriate soil compaction was performed by OHG and whether OHG used the construction materials with the appropriate properties.

Further, INL has developed a multi-layered oversight approach and is putting in place a construction monitoring and reporting contract to track daily renovation/reconstruction activities at Baghlan prison and supplement the oversight conducted by INL personnel.

### **Responses to Recommendations**

**Recommendation 1:** Recoup the \$850,000 in invoice charges paid to OHG that should have been retained in order to protect INL in the event of a contract dispute.

**INL Response (May 2014):** The Department generally agrees with this recommendation, because an amount equal to ten percent of the contract amount for the duration of the one-year warranty period should have been withheld. The legal issues involving responsibility for the damages that have arisen and the contractor's obligation to provide a remedy and/or reimburse the Department are the subjects of pending negotiation and possible litigation. The Department intends to pursue all remedies available to it to protect the U.S. government's interests.

**Recommendation 2:** Require that any rebuilding at Baghlan Prison comply with International Building Code and American Concrete Institute requirements regarding the use of steel-reinforced masonry walls.

**INL Response (May 2014):** The Department agrees with SIGAR's recommendation and did in fact adhere to the requirements for construction in an earthquake zone in its initial design and planning. The design for Baghlan prison specifically provided that: "In addition to design requirements of [International



Code Council International Building Code] ICC IBC, the Contractor shall provide additional seismic reinforcement.” While the photographs INL provided to SIGAR demonstrate that OHG constructed reinforced brick walls, OHG did not follow the contract specifications, design requirements, or proper construction techniques. INL will continue to hold OHG accountable to rectify deficient construction identified by INL in July 2013 and subsequently recognized by SIGAR. It is incorrect that INL plans to allow unreinforced brick walls in any reconstruction. INL is committed to maintaining safe and secure facilities and will ensure that reinforced masonry compliant with IBC standards is used in any future reconstruction.

**Recommendation 3:** Determine the structural adequacy of the other buildings constructed under the contract and take action to repair or replace those found structurally inadequate.


**INL Response (May 2014):** The Department agrees with SIGAR’s recommendation and initiated steps prior to the SIGAR inspection to award a contract for an independent company to conduct soil and construction materials testing at the Baghlan provincial prison compound. The Department awarded the contract on May 9, 2014. This testing will enable the Department to identify any possible further issues at the site as well as further actions that may be required to address them.

**Recommendation 4:** Require the contractor to follow an INL-approved demolition safety plan.

**INL Response (May 2014):** The Department agrees with SIGAR’s recommendation and has already demanded that OHG submit, for INL approval, a corrective action plan for demolition activities and an associated demolition safety plan which has yet to be received. INL and OHG agreed on February 4, 2014 that OHG will provide corrective action plans for INL approval before starting any work on the site. INL has repeatedly demanded that OHG submit the required plans, as documented in correspondence dated March 27, April 14, and May 1. INL is willing to pursue all rights and remedies to enforce this requirement upon the contractor. On February 4, INL directed the contractor to cease all remediation activities not covered by INL-approved corrective action and safety plans.

We appreciate SIGAR's thorough examination of U.S. foreign assistance programming in Afghanistan's corrections sector. INL looks forward to continuing to work with SIGAR and other relevant authorities on these issues.

Sincerely,



James A. Walsh  
Executive Director